



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, October 9, 2013

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Grif Chalfant, Ward 2

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20131119 Marietta Housing Authority Commissioner

Swearing in of new Marietta Housing Authority Commissioner to replace Michelle Cooper Kelly who resigned effective October 9, 2013.

PROCLAMATIONS:

20131034 Diaper Day

Mayor Tumlin presents Ms. Barbara Hickey a proclamation declaring October 28, 2013 as Diaper Day in Marietta.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

*** 20131084 Regular Meeting - September 11, 2013**

Review and approval of the September 11, 2013 regular meeting minutes.

*** 20131085 Special Meeting - September 17, 2013**

Review and approval of the September 17, 2013 special meeting minutes.

*** 20131086 Special Meeting - September 25, 2013**

Review and approval of the September 25, 2013 special meeting minutes.

MAYOR'S APPOINTMENTS:

20131106 Marietta Housing Authority Appointment

Appointment of new Marietta Housing Authority Commissioner to fill the unexpired term of Michelle Cooper Kelly.

CITY COUNCIL APPOINTMENTS:**ORDINANCES:**

20130733 Z2013-20 Keith Crystal 140 Dodd Street

Z2013-20 [SPECIAL LAND USE PERMIT] KEITH CRISTAL requests rezoning for property located in Land Lot 12370, District 16, Parcel 0450, 2nd Section, Marietta, Cobb County, Georgia and being known as 140 Dodd Street from CRC (Community Retail Commercial) to LI (Light Industrial), with a Special Land Use Permit (SLUP) for an auto storage yard and wrecker service. Ward 7.

The following variance was granted:

Variance to allow gravel as an approved surface for automobile storage [Section 716.08 (A) & (B)]

The following stipulations are incorporated as a condition of zoning:

1. Property shall be used for the storage of operable cars only.
2. No vehicles will be kept on the lot in excess of 30 days.

Councilman Goldstein disclosed that he is the Manager of Marietta Shopping Center, LLC (and owner) which is a Landlord to Keith Crystal and is a General Partner of Herbert S. Goldstein Family Limited Partnership (and partial owner) which is a Landlord to Keith Crystal.

To Councilman Goldstein's understanding, Keith Crystal is a member and an owner of Your Final Notice, LLC (proposed business at the site) and the applicant. Councilman Goldstein has no financial interest in the property at 140 Dodd Street that is the subject of the rezoning, etc...

The Planning Commission recommends approval as stipulated. Vote: 4 – 0 – 0

Motion: Mr. Diffley made a motion to recommend to city council that this rezoning be approved as submitted, from CRC (Community Retail Commercial) to LI (Light Industrial), and that the SLUP be granted for towing.

Stipulations: That only operable vehicles will be placed on this lot and that if inoperable vehicles are placed on the lot, Mr. Crystal will have to pave the lot, properly drain and environmentally treat drainage.

PUBLIC HEARING (All parties sworn in.)

This item was tabled from the August 14, 2013 City Council meeting.

This item was tabled from the September 11, 2013 City Council Meeting.

* **20130926 Z2013-23 Jason Jackoniski 413 Washington Avenue**

Z2013-23 [REZONING] JASON JACKONISKI requests rezoning for property located in Land Lot 12160, District 16, Parcel 0530, 2nd Section, Marietta, Cobb County, Georgia and being known as 413 Washington Avenue from R-4 (Single Family Residential 4 units/acre) to OIT (Office Institution Transitional) Ward 5.

The following variances are approved as conditions of zoning for the current developed property only and if the structure is demolished these variances shall be discontinued upon the redevelopment of the site, according to Section 706.03, Continuance of a nonconforming building or structure:

1. Reduction of the required driveway width from 20 feet to 9 feet.
2. Waive the Tier A Overlay District requirements.

Planning Commission recommends approval w/variances

Vote: 5 – 0 – 0

Motion: Mr. Vanderslice made a motion to recommend to city council that this zoning change be approved, as submitted, seconded by Mrs. Richardson.

PUBLIC HEARING (all parties are sworn in)

* **20130927 Z2013-24 JW Homes, LLC d/b/a John Wieland Homes & Neighborhoods 66 Waddell Street, 72 Waddell Street, and 109 Waddell Street**

Z2013-24 [REZONING] JW HOMES, LLC d/b/a JOHN WIELAND HOMES & NEIGHBORHOODS requests rezoning for property located in Land Lots 12310 and 12320, District 16, Parcels 1010, 1020 and 0140, 2nd Section, Marietta, Cobb County, Georgia and being known as 66 Waddell Street, 72 Waddell Street, and 109 Waddell Street from CRC (Community Retail Commercial) to MXD (Mixed Use Development). Ward 5.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Poor made a motion to recommend to city council that this rezoning be approved, as submitted, seconded by Mr. Diffley

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

*** 20131126 Revised Detailed Plan - Meeting Park**

Motion to approve the Revised Detailed Plan for Meeting Park, so as to include parcels identified as 66, 72 and 109 Waddell Street. These parcels shall be subject to the variances and stipulations, identified below, that were approved by the original Detailed Plan for Meeting Park, which included the land plan, landscape plan and architectural renderings, signed by the owner and dated September 11, 2013, in accordance with Section 708.20(J.4) of the Marietta City Code:

The approved Detailed Plan shall include the following variances:

1. Variance to reduce the minimum right of way width required for a local, two-lane street from 50 ft. to a minimum of 22 ft.(back of curb to back of curb); with a utilities/access easement of 36 ft. measured from edge easement to edge of easement . [730.01(L)]
 - a. The access easement will extend to the back of sidewalk and any required public ADA access locations.
 - b. The utility easement will extend 5 feet beyond the location of any utility lines. (This variance is for new streets and will not apply to 66, 72 and 019 Waddell Street.)
2. Variance to reduce the minimum width of a sidewalk from 5 feet to 4 feet, but will be required to expand to 5 feet at certain locations to meet ADA requirements. [732.07(C)]
3. Variance to provide street trees only along the public streets as shown on the submitted plans. [712.08]
4. Variance to allow trees in right of way, as shown on the submitted plans. [712.08(D)]
(Minor changes to the landscape plan, including location and change of species, may be made only upon approval of the City Arborist.)

In order to ensure that homes built within the Meeting Park development are built consistent with the 4-Sided Architecture definition, the following language shall be adopted:

1. The homes in the community shall be traditional in nature, and consistent with the house elevations submitted and signed by John Wieland Homes and approved by the City of Marietta, dated September 11, 2013.
2. Design features, standards, and requirements incorporated in the homes shall be as follows:
 - a. Mixture of materials with material changes taking place on the interior corners or where roof massing accommodates the change of materials.
 - b. Window muntins appropriate to the style of the home on all four sides of the residence.

- c. Shutters deemed appropriate by the architect on front and side elevations (and on the rear elevations where they can be seen from the public streets) of the homes.
- d. Mixture of the materials to continue, as appropriate onto the side and rear elevations.
- e. There shall be a maximum of 20 feet horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc.) per heated floor space. This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.
- f. In the event of a disagreement as to being four-sided architecture, the City Manager of the City of Marietta, GA shall be the final arbiter of the plan meeting the criteria.

* **20130928 Z2013-25 The Farm at the Retreat 1637 Burnt Hickory Road**

Z2013-25 [REZONING] THE FARM AT THE RETREAT requests rezoning for property located in Land Lot 02880, District 20, Parcels 000270 and 0070, 2nd Section, Marietta, Cobb County, Georgia and being known as 1637 Burnt Hickory Road from R-20 [20,000 sq. ft.] in Cobb County to R-2 (Single Family Residential 2 units/acre) in the City. Ward 4.

The following variances are incorporated as conditions of zoning:

1. Variance to allow the construction of entry gates subject to Section 726.03.
2. Variance to increase the height of a decorative fence and gate in the front yard of a parcel from 4 feet to 8 feet.
3. Variance to increase the maximum length of a cul-de-sac to from 700 feet to 940 feet.
4. Variance to waive the requirement for a sidewalk along Burnt Hickory Road.

The following stipulations are incorporated as conditions of zoning:

1. Stipulation letter dated September 17, 2013 from Garvis L. Sams, Jr. to Rusty Roth, AICP, Planning & Zoning Manager (except strike item number 18).
2. Stipulation letter dated September 27, 2013 from Garvis L. Sams, Jr. to Rusty Roth, AICP, Planning & Zoning Manager.
3. Stipulation letter dated October 2, 2013 from Garvis L. Sams, Jr. to Rusty Roth, AICP, Planning & Zoning Manager.
4. The applicant/property owner agrees to donate 40 feet of right-of-way measured from the centerline of Burnt Hickory Road along the frontage of the property on Burnt Hickory Road, such that the right of way would be consistent with the right of way line shown for the Retreat at Kennesaw Mountain.
5. The applicant/property owner agrees to donate a 40 foot wide construction easement parallel to the right of way along the frontage of the property on Burnt Hickory Road beginning at the southern property line and extending to the center of the main entry drive for sidewalk construction. This will facilitate construction of the slope, establishing an area to compensate for filling a small area of flood plain, extension of the 84" CMP, and access for the CMP extension. The construction easement is to remain in place until construction of the sidewalk is completed by either the City of Marietta or Cobb County.
6. The applicant/property owner agrees to donate a 10 foot wide construction easement parallel to the right of way beginning at the center of the main entry drive and extending to the northern property line. This will facilitate construction of the slope and sidewalk. The construction easement is to remain in place until construction of the sidewalk is completed by either the City of Marietta or Cobb County.

Planning Commission recommends approval w/variances & stipulations Vote: 5 – 0 – 0

Motion: Mr. Vanderslice made a motion, seconded by Mrs. Richardson, to recommend to city council that this rezoning be approved with appropriate variances and stipulations.

Variances:

Variance to allow the construction of entry gates subject to Section 726.03.

Variance to allow a cul-de-sac to exceed the maximum length of 700 feet.

Variance to allow a cul-de-sac with a diameter of less than 80 feet.

Variance to waive the requirement for a sidewalk along Burnt Hickory Road.

Stipulations: Stipulation letter dated September 17, 2013 from Garvis L. Sams, Jr. to Rusty Roth, AICP, Planning & Zoning Manager, (except strike item number 18).

Stipulation letter dated September 27, 2013 from Garvis L. Sams, Jr. to Rusty Roth, AICP, Planning & Zoning Manager.

*** 20130929 A2013-05 The Farm at the Retreat 1637 Burnt Hickory Road**

A2013-05 [ANNEXATION] THE FARM AT THE RETREAT requests annexation for property located in 02880, District 20, Parcels 270 and 070, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1637 Burnt Hickory Road, consisting of a total of 16.22 acres; along with all required right-of-way. Ward 4.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Diffley made a motion, seconded by Mr. Poor, to recommend to city council that this annexation be approved, as submitted.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

*** 20130930 CA2013-13 The Farm at the Retreat 1637 Burnt Hickory Road**

CA2013-13 [FUTURE LAND USE] In conjunction with the requested annexation of property in Land Lot 02880, District 20, Parcels 270 and 070, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1637 Burnt Hickory Road, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mr. Vanderslice made a motion, seconded by Mr. Poor, to recommend to city council that the Future Land Use be approved, as submitted.

Stipulations: N/A

PUBLIC HEARING (all parties are sworn in)

- * **20130784** CA2013-11 Amendment to the Comprehensive Development Code of the City of Marietta regarding Division 718, Administration and Enforcement

CA2013-11 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Division 718, Administration and Enforcement.

Planning Commission recommends approval Vote: 5 – 0 – 0

Motion: Mrs. Richardson made a motion, seconded by Mr. Vanderslice, to approve this ordinance, as submitted.

Stipulations: To include a provision that the Director of Development Services shall have a maximum of 30 calendar days to make a decision regarding the administrative variance.

PUBLIC HEARING (all parties are sworn in)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

- * **20131068** **2014 CDBG Project List**

Approval of a Resolution authorizing the submittal of the City's FFY'2014 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and further, approving the use of \$390,878 of CDBG FFY'2014 funds the City will receive from HUD.

* **20131113 MOTION TO REFER - Committee Formation**

Motion to approve referring the following agenda item to the October 30th committee meetings-

"Motion approving the formation of a committee consisting of the Economic/Community Development Chair, Judicial Legislative Chair, and the Mayor to discuss a proposal submitted by the Marietta Redevelopment Corporation (MRC)."

2. Finance/Investment: Annette Lewis, Chairperson

* **20131029 Budget amendment to settle up FY2013**

Approval of an Ordinance amending the Fiscal Year 2013 budget to address the annual year-end settlement of accounts to move the salary savings due to unfilled positions and the operational savings by departments to capital accounts for the purchase of vehicles and equipment, to move the General Fund capital contingency to user departments to cover approved capital items, and to appropriate the operational surplus in various Funds of the City.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20131054 Lewis Park Budget Appropriation**

Motion approving funding for improvements to the Lewis Park off-leash and playground areas not to exceed \$8,600 from the 2009 Parks Bond from the category "Improvements to Existing Parks" - specifically the line item for Lewis Park, as previously approved by Council.

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

* **20131039 City Code Change to Civil Service Board Rules**

Approval of an Ordinance amending City Code Section 4-8 Civil Service Rules and Regulations to change the ten days allowed to file a grievance to be the same as the seven days allowed for general employees to file a grievance and to remove a section inadvertently left in the code describing appeals for the lack of promotion and the section on alleged discrimination.

* **20131063 FY 2014 City/BLW Allocation Chart**

Approval of an Ordinance amending the FY 2014 City/BLW position allocation chart and pay and classification plan in order to change the position of Police Cyber Specialist from a part-time position to a full time position.

* **20131066 Historic Preservation Commission Appointment**

Re-appointment of Ray Worden to the Historic Preservation Commission for a three year term expiring September 11, 2016.

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20131043 Standard Operating Procedures**

Motion to approve revisions to the following Standard Operating Procedures for the Marietta Police Department- A020 Use of Force, A022 Oleoresin Capsicum, A025 Electronic Control Devices, A030 Code of Conduct, A033 Inspections, A034 Budget and Fiscal Management, A041 Organizational Structure, A044 Uniforms Equipment and Departmental Property, A047 Internal Affairs, A050 Secondary Employment, A052 Detention & Housing of Detainees, A070 Departmental Forms & Reports, A071 Crime Analysis, A082 Performance Evaluations, C020 Community Response Unit, P010 Patrol Operations, P044 Police Vehicles, P045 Search & Seizure, P046 Legal Process, P049 Traffic Enforcement, S035 Crime & Accident Scenes, T040 Firearms Regulations & Qualifications, and T050 Training.

7. Public Works Committee: Jim King, Chairperson

* **20131062 University Trail Contract**

Motion to approve contract with the Georgia Department of Transportation for construction of the University Trail.

OTHER BUSINESS:

* **20130900 Licensing of Temporary Vendors**

Approval of an Ordinance amending Chapter 8-12-26 Transient Vendors and Temporary Businesses of the Code of Ordinances of the City of Marietta, Georgia.

20131114 Intergovernmental Agency Agreement

Motion approving the attached Intergovernmental Agency Agreement with the Marietta Housing Authority relating to the Urban Redevelopment Bond.

Mayor Tumlin disclosed that Smith, Tumlin, McCurley, and Patrick law firm of which Mayor Tumlin is affiliated provides legal services in the real Estate area for Marietta Housing Authority.

* **20131118 MOTION TO REFER - Pending Loan Renewal Request-Marietta Redevelopment Corporation (MRC)**

Motion to refer the following agenda item to the October 30, 2013 Economic/Community Development Committee -

"Motion to consider request from Marietta Redevelopment Corporation related to the renewal of the Marietta Redevelopment Corporation loan with Bank of North Georgia. The Bank of North Georgia has requested that the City of Marietta "provide and interest reserve sufficient to carry the (MRC) loan for the entire loan (18 months). The discussion may include issues related to a possible Forbearance Agreement among the City of Marietta, Marietta Redevelopment Corporation and Bank of North Georgia. The discussion could also include consideration of the purchase of certain real property owned by the Marietta Redevelopment Corporation by the City of Marietta and issues related to the road right of way for the Marietta Redevelopment Corporation property adjacent to Powder Springs Street. This item was requested by Mayor Tumlin."

20131125 Amendment to bond documents that is to be voted on in the November General Election for the City of Marietta in Oct. 9, 2013.

Motion to amend the bond documents to place a restriction or requirement on how money from the sale of property or assets that is purchased from proceeds from the bond(s) is used. Such money shall either continuously be used for the original designated purpose stated in the bond (be spent only in the area that was designated in the bond and for the purposes as set forth in the bond document) or shall be used to pay down the bond(s) as long as the bond(s) are outstanding and for no other purpose. Such restriction shall continuously attach to any proceeds from the sale of property or assets that was purchased from the original bond money or from money that was gained from the sale of property or assets that were purchased with money from the sale of subsequent property or assets that have been purchased. This item was requested by Council Member Goldstein.

* **20131135 Motion that a fiscal policy be adopted as to the pending 2013 Redevelopment Bond:**

Be it resolved that any and all net proceeds derived from the sale of real property purchased with proceeds from and in compliance with the 2013 Redevelopment Bond be reinvested pro rata as to said Bond source as governed by the provisions of said Bond as if an original use of bond proceeds or if not so reinvested, designated for bond debt retirement until debt is retired in its entirety rather than in both alternatives, proceeds becoming a general fund amount while bond debt is outstanding. Be it further resolved that the next term of Council be recommended to adopt this Resolution at the January, 2014 Council meeting for its term or as further directed by the Mayor and Council. This item was requested by Mayor Tumlin.

* **20131081 Civil Service Board Election**

Motion to approve the Certified Election Results for the uncontested election for Post 4 of the Civil Service Board. Lawrence (Larry) A. Panetta qualified to fill the Post 4 vacancy for a term of three years, expiring on December 31, 2016.

* **20131141 Property Acquisition**

Motion authorizing acquisition of the property at 21 Alexander Street from Pamela B. Fuller and Michael G. Fuller for the purpose of constructing the Alexander Street Improvements - Roswell to Washington Project in exchange for \$4,700.00 and the following stipulations.

1. The parcel designated on the survey provided for 21 Alexander St. as 1A will be deeded fee simple to Pamela B. Fuller and Michael G. Fuller.
2. Wall to be faced with brick or granite stone similar to wall on NE corner of Alexander and Washington St.
3. Fence on top of wall to be similar to fence wall on NE corner of Alexander and Washington St.
4. Driveway entry skirt to be concrete.

* **20131142 Property Acquisition**

Motion to direct staff and the City Attorney to commence eminent domain proceedings to acquire property located at 343 Allgood Road.

* **20131143 Property Acquisition**

Motion to direct staff and the City Attorney to commence eminent domain proceedings to acquire property located at 349 Allgood Road.

*** 20131087 BLW Actions of the October 7, 2013**

Review and approval of the October 7, 2013 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:

ADJOURNMENT: